

The opinion in support of the decision being entered
today was not written for publication and is
not binding precedent of the Board

Paper No. 15

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JORG LAWRENZ-STOLZ

Appeal No. 2001-1295
Application 283,169

RECONSIDERATION

MAILED

FEB 24 2003

**PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES**

Before THOMAS, BARRETT, and FLEMING, Administrative Patent Judges.
THOMAS, Administrative Patent Judge.

ON REQUEST FOR REHEARING

In a paper received on January 16, 2003, appellant requests
that we rehear our decision dated November 25, 2002, in which we
sustained the rejection of all claims on appeal under 35 U.S.C.
§ 103.

The major issue for our consideration in the appeal as set
forth in our earlier decision focused on the claimed feature of
each independent claim on appeal that the cylindrical lens in
effect appears to be stated to be "independent of the holder" as

recited in some manner in each of these claims. The bottom of page 1 of the Request for Rehearing indicates that this limitation was added at the beginning of the prosecution of this continuing application as was considered important for distinguishing over the art the examiner had applied.

The bottom of page 1 of appellant's Request for Rehearing quotes in part from the paragraph bridging pages 7 and 8 of our original opinion. There, we questioned the original specification's ability to support the feature that the cylindrical lens was fastened to the optical fiber array "independent of the holder." Appellant's attempt to provide support for this limitation in the paragraph at page 2 of the Request for Rehearing does not persuade us to change our views originally expressed in this paragraph from our earlier opinion. As discussed in the paragraph bridging pages 3 and 4 of our original opinion and acknowledged by appellant at page 2 of the Request for Rehearing, Figure 4 is the only figure which shows a single cylindrical lens 60 related to the pending claims on appeal. We indicated at this location in our original opinion that this figure is only discussed at pages 18 and 19 of the specification as filed. This discussion and the showing in

Figures 4-6 make it clear that the optical fibers in these figures themselves are not "independent of the holder" 50. On the other hand, the showings in Figures 5 and 6 that embodiment employing plural lenses 22 do clearly show that these lenses may be aptly characterized as being independent of the holder 50.

The arguments at page 2 of the Request for Rehearing appear to attempt to impute the clear teachings and showings in Figures 5 and 6 to the mounting arrangement of the cylindrical lens 60 to the plural optical fibers on the holder 50 in Figure 4. The use of the phantom line in Figure 4 does not necessarily indicate that the lens 60 is mounted independent of the holder 50. The use of such a phantom line shows that the view of Figure 4 is from the opposite end of the holder, that is, from perspective of the optical fibers 21 leaving the holder 50. Such is shown in the embodiment shown in the Figures 5 and 6. There are no showings of the single cylindrical lens embodiment in Figure 4 corresponding to the showings of the plural lens embodiment in Figures 5 and 6.

The written description of Figure 4 itself beginning at the bottom of page 18 through page 19 of the specification as filed does not necessarily indicate or describe the single cylindrical

lens 60 as being mounted independent of the holder 50 used for the optical fibers 21 within this figure. Our study of the specification as filed in rendering our original opinion and a review of it again with respect to this opinion indicates the appellant teaches at many locations throughout the specification that the lenses are directly glued to the ends of the optical fibers. It is only the paragraph bridging pages 7 and 8 and the bottom of page 15 of the specification as filed that the direct glueing operation itself is said to in effect center the respective lenses to the optical fiber or fibers to which they are attached. Beyond this desired result, we repeat again what we said in the paragraph bridging pages 7 and 8 of our original opinion that "appellant's own specification does not explain in any manner how the glueing arrangement of a cylindrical lens according to the arrangement shown in Figure 4 from which the current claims are derived is actually performed."

As to the discussion regarding the summary of the rejection beginning at the bottom of page 2 of the Request for Rehearing, our reasoning and the examiner's position according to the rejection and in our prior opinion make clear that in single lens arrangements in the prior art (including appellant's admitted

prior art at specification pages 2 and 3) the lens was supported by a fixture which also supported the optical fibers. Appellant's brief as emphasized in our earlier opinion, did not discuss in any detail persuasive to us the patent to Dakss but tended to focus mostly upon d'Auria and to a lesser extent the patent to Comerford. We did not so regard, as urged at the top of page 3 of the Request for Rehearing in our original opinion, that Dakss was limited to attached single microspheres to respective individual fibers. While next purporting at the top of page 3 of the Request for Rehearing not to challenge our decision and findings in our earlier opinion, appellant then precedes to do exactly this at the top of page 3 "Issue for Reconsideration."

According to the paragraph bridging pages 3 and 4 of the Request for Rehearing, appellant recognizes that we did discuss our views with respect to Dakss and recognized that this reference teaches his microspheres are attached to individual fibers in advance of placing the fibers in any holder. Appellant then correctly recognizes that we reasoned that such a teaching obviously would have been extendable by the artisan to an array configuration of optical fibers utilizing a single cylindrical lens. The assertion that "the Board never considered how that

might be accomplish" is misplaced because the reasoning set forth in our earlier opinion made clear that we found the artisan would have utilized the teaching value of Dakss and applied it to such a single cylindrical lens arrangement feeding plural optical fibers set forth in an array.

Appellant next questions "How could one attach an elongated cylindrical lens to an array of fibers in mid-air and maintain that configuration while the glue dried??" Again, Dakss makes clear the technique. Appellant then asserts "the only way such as assembly could be fabricated is by using a fixture to set up and maintain the spacing and position of the plurality of transport fibers while the glue dried." Not only is the use of such a fixture not disclosed, it is not claimed in the apparatus claims on appeal. In fact, our reasoning in our earlier opinion made clear to the reader that it was our belief that Dakss fully explained to the artisan how to do this without such a fixture. As indicated earlier, appellant's specification clearly indicates that direct glueing somehow centers the respective lenses to the ends of the optical fibers but never explains the exact methodology as to how this centering operation is achieved. No fixture is disclosed by appellant to do this in any manner, just that it is somehow accomplished.

Lastly, appellant first asserts at the top of page 2 of the Request for Rehearing that "[f]ailure to give due weight to this limitation [the feature of the independent claims on appeal of the cylindrical lens being placed independent of the holder] was an error and provides grounds for reconsideration." This assertion is repeated at the top of page 4 of the Request for Rehearing in the conclusion paragraph where appellant states that the Board "failed to give adequate weight to the limitation that the cylindrical fiber [sic, lens] is connected to the transport fibers independent of the holder." The study of our earlier decision makes clear that we did not ignore this feature, that we did give it weight and found that it would have been obvious to the artisan in light of the examiner's reasoning and the applied prior art as explained by us in our earlier decision. This feature is more directly discussed at the top of page 7 of our earlier opinion and in other words at the top of page 8.. Our conclusion of the obviousness of the claims on appeal within 35 U.S.C. § 103 would have been the same had we not questioned the specification's adequacy of and support for the noted limitation.

Appeal No. 2001-1295
Application 09/283,169


In light of appellant's Request for Rehearing, we have reconsidered our reasoning and conclusion of obviousness of all the claims on appeal, but remain unconvinced of any error therein.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)

DENIED

James D. Thomas
Administrative Patent Judge

Lee E. Barrett
Administrative Patent Judge


Michael R. Fleming
Administrative Patent Judge

BOARD OF PATENT
APPEALS AND
INTERFERENCES

JDT/cam

Michael A. Stallman
LIMBACH & LIMBACH
2001 Ferry Building
San Francisco, CA 94111